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PHILIP MORRIS USA INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

17 PHILIP MORRIS USA INC.,

NO.: C-06-00701-MMC

Plaintiff,

PRELIMINARY INJUNCTION

The Hon. Maxine M. Chesney
Hearing Date: February 17, 2006
Hearing Time: 9:00 a.m.
Courtroom: 7

20 SILVER VIEW SUPERMARKET, a California
21 corporation doing business as SILVER VIEW
SUPERMARKET, *et al.*,

Defendants.

1 This matter came on for hearing before the Honorable Maxine M. Chesney, United
2 States District Judge, in Courtroom 7 of the United States District Court for the Northern
3 District of California located at 450 Golden Gate Ave., San Francisco, CA on February 17,
4 2006 at 9:00 a.m. on an Order to Show Cause why an order should not be entered, pursuant
5 to Rule 65 of the Federal Rules of Civil Procedure, granting plaintiff Philip Morris USA
6 Inc. ("Philip Morris USA") the preliminary injunctive relief set forth below against Silver
7 View Supermarket, a California corporation doing business as Silver View Supermarket
8 ("Silver View Supermarket"), pending the final disposition of this action. To date, no
9 opposition has been filed by Silver View Supermarket.

10 The Court, having considered the papers filed by Philip Morris USA, hereby finds
11 that good cause has been shown for the issuance of the requested preliminary injunction as
12 follows:

13 **IT IS ORDERED THAT**, pending the final disposition of this action, Defendant
14 Silver View Supermarket is hereby enjoined and prohibited from:

- 15 1. Purchasing, selling, offering for sale, or otherwise using in commerce any
16 counterfeit MARLBORO® and/or MARLBORO LIGHTS® brand cigarettes; and
- 17 2. Assisting, aiding or abetting any other person or entity in purchasing, selling,
18 offering for sale, or otherwise using in commerce any counterfeit MARLBORO® and/or
19 MARLBORO LIGHTS® brand cigarettes.

20

21 **ORDER GRANTING CERTAIN EXPEDITED DISCOVERY**

22 **IT IS FURTHER ORDERED THAT**, pursuant to Rules 26 and 34 of the Federal
23 Rules of Civil Procedure, Philip Morris USA shall be entitled to conduct the following
24 expedited discovery from Defendant as follows:

- 25 1. Philip Morris USA shall be entitled to serve discovery immediately upon
26 Defendant -- i.e. before the parties have conferred pursuant to Federal Rule of Civil
27 Procedure 26(f) or made their initial disclosures pursuant to Rule 26(a) -- including but not
28 limited to discovery by way of interrogatories, requests for production, depositions, requests

1 for admissions, and third-party discovery.

2

3 BOND

4 **IT IS FURTHER ORDERED THAT** the bond in the amount of \$10,000 that was
5 posted with the Clerk of this Court by Philip Morris USA on February 10, 2006, to provide
6 security for the payment of such costs and damages as may be incurred or suffered by any
7 party who is found to have been wrongfully restrained or enjoined by the Temporary
8 Restraining Order issued by the Court on February 7, 2006, is hereby converted into a bond
9 to provide security for any such costs or damages as may be incurred by any party who is
10 found to have been wrongfully enjoined by this Preliminary Injunction.

11

12 UNSEALING

13 Pursuant to 15 U.S.C. § 1116(d)(8), the Court previously ordered that the temporary
14 restraining order and all supporting documents filed by plaintiff (Docket Nos. 4-11, and 13-
15 21) would be filed under seal until defendant had an opportunity to contest the temporary
16 restraining order. As defendant has been afforded such opportunity, there is no need for
17 said documents to remain under seal.

18 Accordingly, **IT IS FURTHER ORDERED THAT** all documents previously filed
19 under seal in the instant action shall be unsealed.

20

21 SERVICE

22 **IT IS FURTHER ORDERED** that plaintiff shall serve a copy of this order on
23 Silver View Supermarket forthwith.

24

25 IT IS SO ORDERED.

26 DATED: February 17, 2006



27 UNITED STATES DISTRICT JUDGE

28